

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

MUJAHEED ZIYAD,
Plaintiff,

V.

**MICHAEL CHERTOFF,
AS THE DIRECTOR OF
THE DEPARTMENT OF HOMELAND
SECURITY, ROBERT S. MUELLER, III
AS THE DIRECTOR OF FEDERAL
BUREAU OF INVESTIGATIONS
Defendant**

No.:

FILED: JUNE 13, 2008

08CV3435

JUDGE DER-YEGHIAYAN

MAGISTRATE JUDGE NOLAN

A 076 792 277

TC

COMPLAINT FOR MANDAMUS

Plaintiffs, MUJAED ZIYAD (“Ziyad”), by and through, REEM H. ODEH, of the LAW OFFICES OF BRODSKY & ODEH respectfully requests this Court to enter an order directing the Defendant, MICHAEL CHERTOFF, Director of Homeland Security and ROBERT S. MUELLER III, as Director of Federal Bureau of Investigations to adjudicate Plaintiff’s application for Naturalization. In support of said request, the Plaintiff states as follows:

JURISDICTION AND VENUE

1. The is a civil action brought pursuant to 8 U.S.C. section 1329, and 28 U.S.C. Sections 1331 (Federal Questions) because Plaintiffs’ claims arise under the federal laws of the United States, and 1361 (Mandamus Act), and Section 1447(b) to redress the deprivation of rights, privileges and immunities secured to Plaintiff, by which statutes jurisdiction is conferred, to compel Defendant to perform a duty Defendant owes to Plaintiff, 5 U.S.C. section 704 also confers jurisdiction, 28 U.S.C §2201 (Declaratory Judgement Act) and under 5 U.S.C. §701 *et seq.* (Administrative Act of the “APA”).

2. Venue is proper under 28 U.S.C. section 1391(b), since Defendant is the Director of the Bureau of Citizenship and Immigration Services (BCIS), an agency of the United States Government, under the Department of Homeland Security. The Defendant Robert S. Mueller III, is the Director of the federal Bureau of Investigations.

3. This action is brought to compel the defendant, officers and an agency of the United States, to perform its duties arising under the laws of the United States.

4. The APA requires USCIS and the FBI to carry out their duties within a reasonable time. The provision of the APA that provides this is 5 USC Sec. 555(b), which states that “with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” USCIS and FBI are subject to 5 USC Sec. 555(b). The Plaintiffs contend that the delays in processing their applications for naturalization are unreasonable.

PARTIES

5. Plaintiff Mujahed is a native of Palestine, his date of birth is July 18, 1970. He became a Legal Permanent Resident on January 31, 2003.

6. Plaintiff Ziyad’s alien number is A076 792 277.

7. Defendant, MICHAEL CHERTOFF, is the Director of the Department of Homeland Security. As such, he is charged with the duty of administration and enforcement of all the functions, powers, and duties of Bureau of Citizenship & Immigration Services, the former INS. The Defendant ROBERT S. MUELLER III, is the Director of the Federal Bureau of Investigations.

8. That Robert Mueller is sued in his official capacity. The FBI is responsible for the proper background clearance conducted on each applicant for naturalization.

CLAIMS FOR RELIEF

9. On November 9, 2005 Plaintiff filed his application and paid the appropriate filing fees and submitted all the required documentation.

10. On December 13, 2005 Plaintiff appeared before the Citizenship and Immigration Services service center to have his fingerprints and biometrics taken as part of the naturalization process.

11. That on April 4, 2006 Plaintiff appeared for a Naturalization Interview at which time he passed the tests of English and U.S. History.

12. At the conclusion of the interview, Defendant's agent or employee did not make a decision whether or not to approve Plaintiff's application although Plaintiff had passed the exam.

13. That since the date of the interview, Defendant has yet to adjudicate Plaintiff's pending naturalization application.

14. Since the time of the Plaintiff's interview with the Defendant, the Plaintiff has made numerous oral and written requests of the Defendant concerning a final adjudication of said applications.

15. Despite these inquiries to Defendant, it is Plaintiff's belief that the applications remain unadjudicated.

16. The Defendant, in violation of the Administrative Procedure Act, is unlawfully withholding or unreasonably delaying a decision on the applications of Plaintiff.

17. Plaintiffs have exhausted any remedies that may be exist.

WHEREFORE, Plaintiffs prays that the Court, in light of the foregoing:

- A. Compel Defendant and those acting under him to perform their duty to rule upon the Plaintiff's applications;
- B. Compel the Federal Bureau of Investigation to complete their background and fingerprint

process.

- B. Grant attorney's fees and cost of court
- C. Grant such other and further relief as this Court sees proper under the circumstances.

Respectfully Submitted,

/s/ Reem H. Odeh

Reem H. Odeh
Attorney for Plaintiff

Reem H. Odeh
Law Offices of Brodsky & Odeh
8 S. Michigan, Suite 3200
Chicago, Illinois 60603
312-701-3000
312-701-3088(fax)

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JUDGE DER-YEGHIAYAN

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MAGISTRATE JUDGE NOLAN Page 5

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Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview ResultsA#: 76 792 277On 4-4-06, you were interviewed by USCIS officer WEIR

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak/ _____ read/ _____ write _____ English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) _____ **Congratulations! Your application has been recommended for approval.** At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

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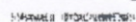
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Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797C, Notice of Action



Fingerprint Notification		NOTICE DATE November 18, 2005	
CASE TYPE N400 Application For Naturalization		INS A# A 076 792 277	
APPLICATION NUMBER LIN*000840195	RECEIVED DATE November 09, 2005	PRIORITY DATE November 09, 2005	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS MUJAHED ZIYAD 12903 CEDAR LN PALOS HEIGHTS IL 60463			
<p>To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.</p>			
APPLICATION SUPPORT CENTER INS PULASKI 5160 S. PULASKI AVE SUPER MALL, SPACE 101 CHICAGO IL 60632		<p>BIOMETRICS QA REVIEW BY: <u>XCB</u> DATE AND TIME OF APPOINTMENT 12/13/2005 09:00 AM</p> <p>ON FINGERPRINTS QA REVIEW BY: <u>158077</u> <u>12/13/05</u></p>	
<p>WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:</p> <ol style="list-style-type: none"> 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted. 			
PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.			
<p align="center">REQUEST FOR RESCHEDULING</p> <p>Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon</p> <p>INS cannot guarantee the day preferred, but will do so to the extent possible.</p> <p>Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:</p> <p>INS PULASKI 5160 S. PULASKI AVE SUPER MALL, SPACE 101 CHICAGO IL 60632</p> <p>If you have any questions regarding this notice, please call 1-800-375-5283.</p> <p>APPLICATION NUMBER LIN*000840195</p> <p align="right">APPLICANT COPY </p>			
<p align="center">WARNING!</p> <p>Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.</p>			



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Illinois Jesse White - Secretary of State


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DRIVERS LICENSE

MUJAHED I ZIYAD
12903 CEDAR LANE
PALOS HEIGHTS IL 60463

Birthdate 07-18-70
Male 5'00" 175 lbs BRN Eyes
Restrictions Type Class
ORG D

Y. Ziyad



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Name: Mujahed I Ziyad
Appointment Type: Question about case
Confirmation No.: CHI-07-27165 **Authentication Code:** f1c5
Appointment Date: October 5, 2007
Appointment Time: 11:45 AM
Location: 101 W. CONGRESS PARKWAY, Chicago, IL 60605;
LOBBY

**This is your Confirmation
Number:**

☒ CHI-07-27165

**If you wish to cancel this appointment, you will need the
following Personal Identification Number:
59418**

**Please be on time. Failure to show up on time will result in the cancellation of
your appointment. You will then need to reschedule your appointment. You will
not be admitted more than 15 minutes before your scheduled appointment time.**

- **You must appear in person and bring photo identification along with this appointment letter.**
- **Acceptable forms of identification are any of the following: Government issued Identification, passport, valid driver's license, I-94, Work Authorization Card, or Permanent Resident Card. (Green Card)**
- **In order that we may serve you more efficiently, we recommend that you bring all applicable Immigration forms, letters, receipts and supporting documents. If translations are used, they should be certified. Please bring the original documents as well.**

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U.S. Department of Homeland Security
USCIS
101 West Congress Parkway
Chicago, IL 60605



**U.S. Citizenship
and Immigration
Services**

Thursday, October 11, 2007

MUJAHED ZIYAD
12903 SEDER LN
PALOS HEIGHTS IL 60463

Dear Mujahed Ziyad:

On 10/04/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	Applicant or Petitioner
Attorney Name:	Information not available
Case type:	N400
Filing date:	11/15/2005
Receipt #:	LIN*000840195
Beneficiary (if you filed for someone else):	Information not available
Your USCIS Account Number (A-number):	A076792277
Type of service requested:	Outside Normal Processing Times

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

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Department of Homeland Security
U.S. Citizenship and Immigration Services

I-797C, Notice of Action



Receipt with Exception		NOTICE DATE: November 15, 2005	
CASE TYPE: N400 Application For Naturalization		INS AB: A 076 792 277	
APPLICATION NUMBER: LIN*000840195	RECEIVED DATE: November 09, 2005	PRIORITY DATE: November 09, 2005	PAGE: 1 of 1
APPLICANT NAME AND MAILING ADDRESS: MUJAHED ZIYAD 12903 CEDAR LN PALOS HEIGHTS IL 60463		PAYMENT INFORMATION: Single Application Fee: \$400.00 Total Amount Received: \$400.00 Total Balance Due: \$0.00	

The above application has been received by our office and is in process, but has been noted with one or more of the following exception(s):

Missing Evidence(s) - your application was missing evidence(s) that you will need to provide at the time of your naturalization interview. You will be notified under separate notice of the necessary evidence(s) that you will be required to bring to your interview. Do not submit any evidence(s) by mail.

Our records indicate your personal information is as follows:

Date of Birth: July 18, 1970
Address Where You Live: 12903 CEDAR LN
PALOS HEIGHTS IL 60463

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 540 days of this notice.

IMPORTANT NOTICE: All naturalization applicants who were between the ages of 14-75 at the time of filing must have their fingerprints taken at an INS Application Support Center (ASC) so they can be submitted to the Federal Bureau of Investigation for a criminal history check. If we received your application without a fingerprint card (FD-258), or your fingerprint card was received on or after December 3, 1997, you will need to go to an ASC to be fingerprinted. Do not have your fingerprints taken anywhere else. You will receive a notice that will provide you with information about when and where to go to have your fingerprints taken, and what you will need to bring with you. Please inform the office listed below immediately of any address changes.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
PO BOX 87400
LINCOLN NE 68501-

INS Customer Service Number:
(800) 375-5283

APPLICANT COPY

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EXP RES: 06-21-05 07-18-09

MOJAHED I ZIYAD
12903 CEDAR LANE
PALOS HEIGHTS IL 60463

Birthdate 07-18-70
Male 5'00" 175 lbs BRN Eyes
Restrictions Type Class
----- ORG D

DRIVERS LICENSE

